

Summary of Public Comments
Clean Water State Revolving Fund (CWSRF) Policy Amendment
Comment Period: September 14, 2018 to October 19, 2018

Commenter	Summary of Comments	SWRCB Response to Comments
(1) Bay Area Clean Water Agencies	(a) Suggests that water recycling projects should be eligible for the primary scoring criteria for corrective and preventive purposes. BACWA letter explains that water recycling projects can require corrective and preventive actions to meet plans, policies, and permit requirements and to correct or prevent violations.	The Primary Score is intended to reflect the direct effect of the project on actual water quality conditions. The key factor making a project a "water recycling" project is delivering water. Water recycling projects indirectly benefit water quality by providing an alternative supply of water. From that perspective, water recycling projects are a special case in the Primary Scoring matrix. Therefore, awarding points to water recycling projects is not appropriate from a water quality perspective since these projects are not done to "correct" or "prevent" water quality degradation per se. If, however, a facility that produce recycled water does have a permit violation, it would be scored as "correcting" a "Water Quality Control Plan or Permit" violation and would receive a score of "8."
	(b) Requests clarification on the eligibility of recycled water onsite user retrofits on private property where a public utility is funding the project. Recommends inclusion of recycled water user retrofits on private property as an eligible cost.	The proposed amendment has been revised to allow recycled water user retrofits on private or public property to be an eligible cost.
	(c) Recommends that larger project's funding be spread out over a few years to ensure that smaller projects from smaller communities have the opportunity to be funded.	The State Water Board already implements this approach. As shown in the IUP, CWSRF funding is provided on a cash flow basis for a wide variety of project types from communities of various sizes throughout the state.
	(d) Considering the Senate passage of America's Water Infrastructure Act of 2018, recommends the State to use the "Innovative Financing for State Loan Funds" provision in this Act to pursue additional financing for high-scoring, high-cost, large projects.	Thank you for your input. The State Water Board will evaluate your recommendation.
(2) California Association of Sanitation Agencies (CASA)	(a) Appreciates the CWSRF staff effort in developing a system for prioritizing projects and incorporating public feedback on the proposal. Comments that the proposal is objective, clear, and relatively simple.	Thank you for your support.
	(b) Expresses concern whether proposed priority system will provide sufficient separation of projects to allow for a clear "cut off" score.	The State Water Board staff understands your concern as a new priority system is being implemented and adjustments may be needed. Staff believes, however, since the proposed system is based on various criteria, it should provide sufficient separation of projects.
	(c) Primary Score: Table 1 Expresses concern that projects associated with a "Drinking Water Source" receive the highest primary score points. Comments that many of the underlying issues associated with drinking water projects can be addressed through the Drinking Water State Revolving Fund (DWSRF) Program. In addition, projects that address public health are automatically fundable and would capture significant drinking water issues impacting public health.	The Priority Scoring System was developed in accordance with the State Water Board's mission and the CWSRF Program's goals. Projects that protect drinking water source or correct a problem with a drinking water source receive the highest primary score because of the public health benefit.
	(d) Primary Score: Table 1 Expresses concern about how the "Impaired Water Body" resource/impact category is scored. Suggests that all projects designed to address TMDL's be designated as "correcting" in nature.	A project may prevent exceedance of TMDL's requirements or improve the efficiency or reliability of meeting TMDL requirements. Therefore, staff does not recommend designating all TMDL's projects as "corrective."
	(e) Primary Score: Table 1 Expresses concern that the proposed definition of "correcting" requires the applicant to document that violations are the subject of enforcement actions. Suggests that this requirement be reworded or eliminated.	The definition of "correcting", states that, <u>if applicable</u> , the applicant must document that the violations are the subject of enforcement actions. Staff recommends no changes to this requirement.

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(2) California Association of Sanitation Agencies (CASA)	(f) Primary Score: Table 1 Suggests the following <u>revision</u> under the definition of "correcting" (clean version, page 6): "demonstrate a <u>direct</u> connection between completion of the project and correction of the problem." The proposed revision would allow projects that have an indirect connection to qualify.	The purpose of the primary score is to reflect the direct effect of the project on actual water quality conditions. If completion of a project, does not directly correct a water quality problem, then the "corrective" category is not applicable to the project. Applicants will have the opportunity to work with staff during the scoring process to demonstrate a direct connection between the project and water quality. Staff recommends no changes.
	(g) Primary Score: Table 1 Expresses concern that the proposed policy amendment does not provide separate scoring for water recycling projects that would result in corrective or preventive actions.	Please see response to (1)(a)
	(h) Primary Score: Table 1 Expresses concern that additional points are given to projects that are corrective over projects that are preventive. Mentions that this approach could "reward" and agency for delaying addressing system deficiencies until an enforcement action is taken, rather than providing funding incentives for an agency that proactively takes preventive actions to avoid a violation or exceedance.	Staff believes that the Regional Water Boards' and the Office of Enforcement's robust enforcement efforts provide an effective deterrent to agencies intentionally allowing valuable infrastructure to deteriorate in an effort to potentially boost the Primary Score and thereby the Priority Score. In addition, the Priority Score is a composite score. The benefits associated with apathetic management and oversight by applicants in an effort to boost the Primary Score is questionable when considering the entire scoring process.
	(i) Secondary Score: Table 2 Within the multi-agency environmental management plan category, suggests adding whether a project is included (or listed) in an Integrated Regional Water Management (IRWM) Plan. Explains that projects identified in these plans appear to meet the other elements of this criteria.	Staff believes that this addition is not necessary. If a project is cited in a plan that fits the description of "Multi-Agency Regional Environmental Management Plan", under the secondary score criteria, then it would receive a secondary score under that category. An IRWM Plan is considered a Multi-Agency Regional Environmental Plan.
	(j) Secondary Score: Table 2 Proposes the following <u>revision</u> under the second item presented in the table: "Project addresses multiple water quality impairments, eliminates or reduces multiple sources of water pollution, or eliminates or <u>reduces</u> a discharge of waste regulated by a Regional Water Quality Control Board or the SWRCB.	Staff recommends not adding the word "reduce" to the item. The item was intended to give Secondary Scoring points to projects that eliminate a discharge into the environment and thereby reduce the number of permits and discharge points. There are many projects that reduce waste discharges, and therefore lowering the bar would tend to make this Secondary Score less effective at prioritizing applications
	(k) Secondary Score: Table 2 Recommends that another secondary characteristic be added to provide secondary score bonus points for projects that agree to accept short term financing (i.e., 20 year versus 30 year).	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.
	(l) Comments that the proposed amendment should have a mechanism for increasing loan amounts for borrowers that have received partial financing agreements.	The proposed amendment does not allow partial funding limitations to be adjusted during the Fundable year, but funding may be increased in a future IUP for projects that are limited in any given year.

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(2) California Association of Sanitation Agencies (CASA)	(m) Suggests scoring bonus for projects that have secured complementary sources of financing.	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Furthermore, the suggested change could have the unintended consequence of putting other funding programs in control of the Board's funding decisions. Staff recommends not adding additional factors to the scoring system.
	(n) Readiness Score: Table 3 Requests clarification on how the readiness score interacts with the application submission timing. Comments that Section IX. A.1 states that applications should be submitted "in advance of the ten percent (10%) design level effort." Mentions that it appears DFA is encouraging applicants to submit applications at a time when they would receive a low readiness score.	The proposed amendment has been revised and the referenced statement removed.
	(o) Managing Financial Assistance Capacity Suggests the following to address and manage capacity constraints: (1) creating separate priority lists for planning/design and construction assistance to provide applicants additional time and resources to plan and design their projects with greater certainty; (2) awarding points to projects that previously received planning/design or construction assistance for the same projects (3) awarding points to applicants which have obtained or are in the process of obtaining co-funding.	Staff does not recommend creating separate priority lists for planning/design and construction projects for the following reasons: (1) it is rare that the CWSRF Program finances a project and that project does not get funded, (2) if there was a shortage of ready to proceed projects, it would be appropriate to have separate priority lists, (3) the CWSRF Program has a history of committing future funds in advance to match future cash flows to project disbursements, and (4) creating an additional priority list, could divert resources away from projects ready to proceed with construction. Staff does not recommend incorporating additional points to the Priority Scoring System. Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.
	(p) Credit/Financial Guidelines (CWSRF Appendix N) Suggests various revisions to Appendix N including adding definition of "Material Debt" and clarifying rate covenants.	The Credit/Financial Guidelines are intended to provide DFA flexibility in reviewing the credit of large borrowers. The guidelines were developed in conjunction with the CWSRF Program's Financial Advisor. DFA staff will continue to work with stakeholders on these guidelines and, consistent with Policy requirements, will adjust the guidelines as they are implemented in the future. Staff recommends no changes at this point.
	(q) Eligibility Requests clarification on the eligibility of recycled water onsite user retrofits on private property that is publicly funded. In Section IX.C.1.R.Vi, suggests removing "on publicly owned" and replacing it with the term "eligible," because a retrofit project that includes expansion of pipelines may include multiple sites, both public and private, that should be retrofitted.	The proposed amendment has been revised to allow recycled water user retrofits on private or public property to be an eligible cost.

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(2) California Association of Sanitation Agencies (CASA)	(r) Section IX.B.2.d.ii Requests clarification on why non-water suppliers are required to comply with requirements related to water conservation	This requirement is consistent with the CWSRF Policy's long standing requirement that non-water suppliers comply with water conservation requirements. The requirements are updated to reflect current state water conservation requirements.
	(s) Section IX.B.2.d.iii Suggests removing "Volumetric Pricing and" from the heading of this section, because this section appears to deal exclusively with water metering.	Staff has made the recommended change.
	(t) Coverage, and Reserves and Cash Flows Comments that the proposed policy amendment does not address the fundamental underlying issue of capacity. CASA also suggests the State Water Board to do the following: (1) sell bonds more often to reduce interest expenditures, (2) actively manage its reserves to increase investment earnings, and (3) vary terms of loans based on credit worthiness of the borrower, potentially decreasing coverage and other requirements in exchange for slightly higher interest rates for borrowers with higher credit ratings.	Staff appreciates the comments. DFA plans to continue working with stakeholders on ways to address the capacity issues of the CWSRF Program.
	(u) Credit/Financial Guidelines (CWSRF Appendix N) Suggests the following addition, under A.3.vii: "The Division may consider accepting a Recipient's alternative Debt Service Calculation assumptions." Comments that the State Water Board should allow some flexibility regarding how the interest on tax-exempt variable rate obligations is calculated, as there are additional industry standard and market-accepted options for calculating interest on a tax-exempt variable rate obligation that are not reflected in the language of the current draft.	The Credit/Financial Guidelines are intended to provide DFA flexibility in reviewing the credit of large borrowers. The guidelines were developed in conjunction with the CWSRF Program's Financial Advisor. DFA staff will continue to work with stakeholders on these guidelines and, consistent with Policy requirements, will adjust the guidelines as they are implemented in the future. Staff recommends no changes at this point.
(3) California Coastkeeper Alliance	(a) Suggests to Include "Climate Change Mitigation" and "Climate Change Adaptation" as two primary scores to determine project eligibility under the CWSRF. Recommend a preventative and improvement score of "7," as the Climate Resolution directs the State Water Board to assign high priority to climate-related and low-impact projects, yet also identifies "the human right to water as a top priority."	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.
	(b) Suggests to include an additional secondary score to recognize and encourage projects that incorporate natural systems and/or natural infrastructure to promote adaptation and utilize existing natural features and ecosystem processes, or restoration of natural features and ecosystem processes. Also recommends a secondary score to encourage and reward projects that complete a climate change vulnerability assessment, consistent with the directive of the Climate Resolution that DFA account for climate change impacts on the viability of projects funded under the CWSRF.	
	(c) Suggests to incorporate additional incentives and eligibility points for projects that actively mitigate and adapt to climate change.	
	(d) Suggests to include the Climate Resolution as a separate Appendix to the CWSRF	The Division adheres to all applicable provisions in the Climate Change Resolution and incorporates them as part of the CWSRF Program implementation. DFA staff believes it is not necessary to include the Resolutions as an Appendix to CWSRF Policy.
	(f) Suggests to include eligible project costs that reflect the actions listed in the Climate Resolution.	To the extent allowed, costs to implement activities in the Climate Resolution and Water Conservation are eligible. Staff is aware of the Climate Change Resolution and requires applicants to evaluate climate change projects on project viability
	(g) Suggests to include additional water conservation measures as eligible project costs.	
	(h) Suggests to prohibit the use of CWSRF funds for seawater desalination facilities.	
	(i) Suggests to include Executive Order B-37-16 and Executive Order 13690 in Appendix O, "State and Federal Cross-Cutting Requirements."	

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(3) California Coastkeeper Alliance	(j) Suggests to prioritize water recycling projects that demonstrate improvements in water supply or reduce pollutant load discharges when determining a project's eligibility under the CWSRF.	To the extent allowed, costs to implement activities in the Climate Resolution and Water Conservation are eligible. Staff is aware of the Climate Change Resolution and requires applicants to evaluate climate change projects on project viability
	(k) Suggests to prohibit the use of CWSRF funds for infrastructure sited in coastal inundation zones that will be impacted by sea level rise and/or extreme weather events.	
	(l) Suggests to require all applicants to the CWSRF and Drinking Water State Revolving Fund (DWSRF) demonstrate compliance with the Federal Flood Risk Management Standard (FFRMS).	
	(m) Suggests to include climate change projections as an eligible project cost to demonstrate project viability and to build and enhance project resilience.	
	(n) Suggests that the State Water Board ensures environmental reviews include development and analysis of at least one project alternative that utilizes existing natural features and ecosystem processes, or the restoration of natural features and ecosystem processes.	
	(o) Suggests that the State Water Board explicitly ensures the Division of Financial Assistance evaluates the technical and financial viability of projects in the context of climate change when financing of each project.	
(4) Coachella Valley Water District	Supports the implementation of the proposed amendments.	Thank you for the support.
(5) East Bay Municipal Utility District	(a) Suggests that Primary Scores should also be given to "Water Recycling" projects in the "corrective" and "preventive" columns because water recycling projects are permitted to protect public health, drinking water, and the environment like other projects.	Please see response to (1)(a)
	(b) Suggests that recycled water onsite user retrofits in privately owned properties should be eligible to receive SRF loans.	The proposed amendment has been revised to allow recycled water user retrofits on private or public property to be an eligible cost.
	(c) Suggests the Policy amendment should include that large projects may be funded over the span of the project, or funded with additional financing such as the America's Water Infrastructure Act of 2018, to ensure that smaller projects for smaller communities are also funded.	DFA already implements this practice in the CWSRF Program.
(6) Heal the Ocean (HTO)	(a) Supports the State Water Board's effort to restructure the scoring process for prioritizing CWSRF projects.	Thank you for the support.
	(b) Suggests that the Priority Score attributed to Water Recycling projects be higher. HTO letter states that recycled water projects can provide a corrective action for multiple resources/impacts listed on Table 1 of the Policy including: (1) Drinking Water Source, (2) Delta Water Quality, and (3) Impaired Water Body.	Please see response to (1)(a)
(7) Las Virgenes Municipal District	(a) Supports the comments by the California Association of Sanitation Agencies (CASA)	Please see responses to CASA's comments.
	(b) Supports the inclusion of several changes in the draft policy including the new definition of "Eligible Start Date," the formalization of the "Fundable List," and the inclusion of "Planning/Design Financing." These efforts will create more certainty for agencies in anticipating funding.	Thank you for the support.
	(c) Secondary Score: Table 2 Recommends the following language modification: "Applicant had adopted a "climate change" action plan or policy, and the plan or policy is applicable to the system being financed or the project will help implement the plan or policy actions.	Staff believes the modification is not appropriate and recommends no change.
	(d) Supports the proposal to include points for agreeing to participate in the match funding option and recommends that local funds being spent on the project be awarded secondary scoring points.	Thank you for your comments. Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.

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(7) Las Virgenes Municipal District	(e) Recommends that additional secondary points be awarded to those projects that request a shorter financing term (e.g. 20 years vs. 30 years).	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.
	(f) Suggests prepayment should be automatically accepted and not require the consent of the Deputy Director.	To be consistent with the State Water Board Debt Management Policy, prepayments will be evaluated on a case by case basis to ensure that adequate coverage levels are maintained on outstanding revenue bonds.
	(g) Suggests the program should consider having a slightly higher interest rate for credit worthy agencies in exchange for less stringent covenants and loan terms.	The CWSRF Program is statutorily prohibited to change the interest rate more than one half of the General Obligation Bond rate.
	(h) Suggests the Board to do the following: (1) develop a Rolling 3-5 year Fundable List – This would allow the CWSRF to better match cash flows; (2) sell bonds more frequently to reduce overall interest expense, (3) consider a slightly higher interest rate that still provides cost-savings advantages to local agencies, and (4) actively manage reserves to increase investment earnings that can be utilized for additional program funding.	DFA staff appreciates your comments and will continue to work with stakeholders on addressing the capacity of the CWSRF Program. Staff recommends no changes at this point.
(8) Leadership Counsel for Justice and Accountability, Community Water Center, and Clean Water Action	(a) Purpose and Objective Requests reference to the State Water Board's Resolution No. 2016-0010 "ADOPTING THE HUMAN RIGHT TO WATER AS A CORE VALUE AND DIRECTING ITS IMPLEMENTATION IN WATER BOARD PROGRAMS AND ACTIVITIES.", and specifically reference 6, 7, and 11.	While the referenced Resolution and clauses are certainly important to the purpose and objective of the CWSRF Program, staff believes that the addition is not necessary because the clauses describe intrinsic practices and procedures in the Division. Staff recommends no change.
	(b) Fundable List Supports the addition of item B.1.c to the fundable list.	Thank you for the support.
	(c) Interest Rate and other charges Request that the Small Community Grant interest charge needs to be made a permanent charge.	The Division regularly forecasts the funds, bond and SCG fees, that will be available for disadvantaged community grants and the future need for grant funds. Since application of the fees reduces the CWSRF's earnings, and therefore its funding capacity, it is important to ensure that there is a balance between earnings and fees.
	(d) Refinancing Supportive of the provisions allowing for refinancing of existing obligations in small DACs and SDACs. Requesting that the definition of "Refinancing" be amended to expressly include Non-Repayable Financing.	Thank you for the support. Principal forgiveness and state grant funds can only be used for new costs. They may not be used to refinance past costs.
	(e) Water Recycling and Small DAC/SDAC Projects Agrees that it is appropriate to include a waiver from federal CWSRF pass-through requirements for project not directly funded through the CWSRF.	Thank you for the support.
	(f) Requests that the Deputy Director be expressly granted the authority to waive or streamline application requirements for small SDACs and DACs. Requests the following additional language in Sections VIII and IX: "To the extent consistent with state and federal authority and the purpose and objective of the CWSRF Program, the Deputy Director may waive or streamline project application requirements for small SDAC and small DAC projects."	The CWSR Policy already gives the Deputy Director sufficient authority to waive certain requirements as described in section VII.A as follows: "the Deputy Director may waive federal CWSRF pass-through requirements, as appropriate."
	(g) Planning/Design Financing Requests clarification on DAC/SDAC planning/design projects that are also available for principal forgiveness.	Annually, the Intended Use Plan sets forth the eligibility requirements of Principal Forgiveness based on the availability of funds.

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(8) Leadership Counsel for Justice and Accountability, Community Water Center, and Clean Water Action	(f) B. Eligible planning/design costs Suggests adding technical assistance costs, legal costs generally (not just for land acquisition) and costs related to preparation of Proposition 218 proceedings for DAC/SDAC project planning.	The proposed amendment has been revised; costs related to Proposition 218 proceedings have been added as an eligible project cost. Technical assistance costs are considered allowance costs. The proposed amendment adequately addresses legal and technical assistance costs. Staff recommends no change.
	(g) Requests that the cost of private laterals be added to the list of eligible project costs.	The proposed amendment has been revised; replacement of private laterals has been added as an eligible project cost.
	(h) Construction/ Implementation Project Disbursements Requests that the operations and maintenance costs in small DACs and small SDACs be eligible for funding. Recommends adding the following language: "Eligible expenses may include initial operation and maintenance costs for systems serving small DACs and small SDACs".	In general, the sources of funding to the State Water Board do not allow operation and maintenance costs as an eligible cost. The revised version of the amendment includes the following disclaimer under the Introduction section: "Notwithstanding any provision of this Policy, the State Water Board will implement this Policy consistent with federal law and policy and state bond law and policy."
	(i) Recommends that the Construction/ Implementation Project Disbursements section to include a provision for advance payment of project costs for DAC/SDAC projects.	The program's operating agreement with EPA do not allow advance payments.
	(j) Construction/ Implementation Project Disbursements Recommends a revision to the following to acknowledge that DAC/SDAC applicants simply do not have the cash on hand to pay vendors while awaiting repayment: 3. The recipient must ensure that adequate local funding is available to pay its consultants, contractors, and vendors in case the disbursement is not processed before payment to the consultant, contractor, or vendor is due. <u>The Office of Sustainable Water Solutions will work with DAC/SDAC recipients to provide bridge financing and/or accelerated repayment in order to improve their ability to pay vendors in a timely fashion.</u>	The proposed amendment has been revised. Section VI.A, item 4 provides clarification on the eligibility requirements of bridge financing.
(9) Los Angeles Department of Water and Power (LADWP)	(a) Section VII. Water Recycling and Small DAC/SDAC Projects Recommends clarification of the intent and contents of this section. The title and organization leave it unclear as to whether provisions applying to small SDAC projects also apply to all water recycling projects. Recommends the development of separate sections on (1) DAC/SDAC projects and (2) on water recycling projects to ensure that project sponsor clearly differentiate between considerations for each project type.	Thank for your comment. Section VII includes items A, B, and C. Item A applies to water recycling and small DAC/SDAC projects, item B applies to water recycling projects, and items c applies to small DAC and small SDAC projects. Staff recommends no changes.
	(b) Section VIII. Planning/Design Financing This section includes the following new provision: <i>"Planning and design costs are eligible for reimbursement as part of a project financing agreement if not previously financed."</i> Requests to add new text, as shown in bold , to improve clarity: <i>Planning and design costs are eligible for reimbursement as part of a project financing agreement if not previously financed by the CWSRF.</i> Explains that the proposed addition shown above would clarify that planning and design costs that have already been paid by project sponsors prior to execution of the initial agreement are still eligible for CWSRF reimbursement.	Staff did not make the suggested change because it could create issues with refinancing tax exempt bonds with other tax exempt bonds.
	(c) Section IX. Project Financing, subsection C.2, Ineligible Costs This section indicates that "Motor vehicles used for employee transportation or for the transportation of materials generated or consumed by the treatment plant" are ineligible costs. Requests clarification as to whether this provision refers to the purchase price of vehicles only or also includes chargebacks that represent the cost of actual vehicle usage directly related to project delivery.	This provision refers to motor vehicles used to provide operation and maintenance of a facility after construction is complete.

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(9) Los Angeles Department of Water and Power (LADWP)	(d) Appendix N: Credit/Financial Guidelines Appreciates the changes made to Appendix N, which address several of LADWP's previous questions and concerns regarding existing financial obligations. LADWP hopes to see similar changes adopted in the Credit/Financial Guidelines for the Drinking Water State Revolving Fund.	Thank you for the support and appreciation. The Division is currently amending the <i>Policy for Implementing the Drinking Water State Revolving Fund</i> (DWSRF Policy). One of the goals of the CWSRF and DWSRF Policy amendments is to improve consistency between the policies. Similar Credit/Financial Guidelines are planned for the proposed DWSRF Policy amendment.
(10) Metropolitan Water District of Southern California	(a) Entities with high credit ratings (AA or better) should be relieved of the limitations in the CWSRF Policy, inclusive of Appendix N, with regard to lien parity, limitations on future bond issuances, and mandatory bond reserve funds, without having the approval of the Deputy Director.	The Credit/Financial Guidelines are intended to provide DFA flexibility in reviewing the credit of large borrowers. The guidelines were developed in conjunction with the CWSRF Program's Financial Advisor. DFA staff will continue to work with stakeholders on these guidelines and, consistent with Policy requirements, will adjust the guidelines as they are implemented in the future. Staff recommends no changes at this point.
	(b) If approval of the Deputy Director continues to be a requirement, the policy needs to lay out a process to directly access the Deputy Director for such consideration.	Division staff are assigned to work with applicants to gather all information necessary for the Deputy Director to make all decisions regarding approval of funding, and will assist applicants with direct access to the Deputy Director if needed.
	(c) Mentions that the requirement to submit copies of each material debt document and credit instrument, inclusive of the Official Statements for all outstanding bond issues, is a highly burdensome requirement. Proposes that, for entities with high credit ratings, the application requirement include the most recent Official Statement and material debt documents, with the balance to be provided upon request, once the application is approved for financing.	The Division maintains copies of records provided by repeat borrowers. Applicants do not have to resubmit documents with every application. .
(11) Pajaro Valley Management Agency	(a) Recommends consideration of critically over drafted groundwater basins and the SGMA compliance requirements as a resource or impact category in the Primary Score considerations. If the SWRCB chooses not to include this new category, then we request the current descriptions be amended to specify that seawater intrusion is an eligible drinking water source threat, and that the development of new water supplies, including stormwater capture and reuse to offset groundwater demands on a critically over drafted basin and protect against further seawater intrusion, is an eligible activity under the Drinking Water Source category.	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.
	(b) Requests clarification on how the DAC/SDAC criteria will be applied. Also recommends to not differentiate DAC/SDAC by population because a community struggling to provide clean, affordable and accessible water is not differentiated by population but only economic status. If the State Water Board does not reconsider the population threshold, requests that DAC/SDAC consideration be applied in the Secondary Score as a potential two points and prior to setting the cutoff score.	Small DAC/SDAC criteria will be applied based on the "community" served by the project. The CWSRF Policy does incorporate the consideration of large disadvantaged and large severely disadvantaged in the priority scoring process. Large DAC/SDAC also benefit from the economies of scale not available to small DAC/SDAC.
(12) Poseidon Water LLC	(a) Supports the proposed SRF Policy amendments which modifies the definitions of eligible applicants and projects to make the Policy consistent with the recent federal and state law.	Thank you for your support.
	(b) Indicates that Section IV (Program Management) reference to the Water Recycling Funding Program (WRFP) Guidelines conflicts with the new definitions of "Applicant" and "Project." According to the WRFP Guidelines, private sector applicants are not recognized as eligible recipients of either Planning Grants or Construction Funding. Poseidon seeks assurance that this conflict between the new definitions in the proposed amendment and the WRFP guidelines language wouldn't prevent private entities from qualifying for SRF Construction or Planning Loans.	The Division is working on amending the Water Recycling Funding Program (WRFP) Guidelines and plans to address your comments in the amended WRFP guidelines, which are expected to be adopted in 2019. Currently, there are no projects on the Fundable List affected by this discrepancy. Any potential conflicts between the CWSRF Policy and the WRFP Guidelines can be resolved by taking a project for approval to the Board.
	(c) Encourages the State Water Board to clarify that committed private capital can constitute the matching funds for purposes of project scoring under the SRF program and to include public-private partnerships that meet its goals for the SRF program in future Intended Use Plans.	The CWSRF Program is willing to accept match funds from any source that can legally provide match funds. The Program only requires applicants to comply with applicable state and federal procurement laws.

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(13) Rural County Representatives of California	(a) Commends the State Water Board for automatically including all Small Severely Disadvantaged Community (Small SDAC), Small Disadvantaged Community (Small DAC), and public health projects on the Fundable List, without regard to priority score.	Thank you for the support.
	(b) Expresses a concern that the Priority Score provisions may divert funding away from most critically necessary projects to those of lesser benefit to local communities and the state.	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. Staff believes that scoring system will ensure that projects that are on the fundable list will provide the greatest water quality benefits.
	(c) Requests clarification on why an "improvement" project in the Delta would score higher ("7") than a project necessary to prevent an impaired waterway "violation or exceedance in the near future" ("6"), and asks the State Water Board to carefully consider the scoring matrix, and make appropriate changes to ensure optimal usage of limited CWSRF funds.	Staff considered many factors in developing the scoring matrix. Water Quality in the Delta is a high priority for the State Water Board.
	(d) Comments that the debt management policy requirement is a recent requirement as of January 1, 2017. Thus, many smaller public entities which have not issued debt within the last two years may not yet have such policy adopted. Recommends that the debt management policy requirement be deferred until after the CWSRF application is approved (i.e., before agreement execution and issuance of associated debt) to allow smaller agencies additional time to develop their policy while their funding application is under consideration.	The Deputy Director has the discretion to approve a financing agreement with conditions.
	(e) Requests that the State Water Board provide technical assistance to smaller applicants in developing new debt management policies, to ensure that smaller districts do not face unnecessary barriers to critical project funding.	The State Water Board can provide technical assistance to smaller applicants through independent TA providers, but the State Water Board does not advise local agencies on their policies.
	(f) Recommends a revision to the definition of "Authorized Representative" in Section III.	Inherent in a governing body's authority is the authority to limit the delegation of authority.
	(g) Proposes various revisions to the Legal Opinion Template	Thank you for your comments. DFA will work with the Office of Chief Counsel to incorporate any appropriate changes.
(14) Sacramento Regional County Sanitation District (Regional San)	(a) Supports the comments submitted by the California Association of Sanitation Agencies (CASA)	Please see the responses to the CASA's comments.
	(b) Comments that the current "Eligible Start Date" definition may be problematic for requesting reimbursement for planning and design project costs that have accrued earlier than the notice to proceed date. Regional San recommends to include clarifying language.	Section XI. B. 1. of the Policy states: "The Division may disburse eligible allowances (soft costs) that were incurred prior to the eligible start date of the financing agreement after execution of the financing agreement. <u>Costs previously disbursed under a planning/design financing agreement are not eligible for reimbursement.</u> The recipient must certify that soft cost work has been completed and that claimed costs were incurred. The recipient must submit invoices or other acceptable documentation to substantiate disbursement of soft costs."
	(c) Suggests adding the definition for "Fundable Year", as it is mentioned in several places in the Policy.	Fundable Year is determined by the Intended Use Plan (IUP).
	(d) Suggests adding "small" prior to SDAC and DAC under Section IV.B.1.b. for consistency with sub-section c.	Thank you for your comment. Staff has made the suggested change.
(15) San Francisco Public Utilities Commission (SFPUC)	(a) Supports the efforts of the SWRCB to revise the SWSRF Policy and encourages the State Water Board to continue exploring options for providing multi-year funding commitments to long-term projects and incentivizing borrowers to pair SRF financing with complementary funding sources.	Thank you for the support.

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(15) San Francisco Public Utilities Commission	(b) Supports the establishment of an Annual Funding Target and Fundable List, but is concerned the changes will not address CWSRF financial capacity constraints, and encourages the State Water Board to consider development of two fundable lists, one for construction loans and another for planning and design loans. Additionally, they believe planning and design borrows should receive priority to finance planning and design loans under SRF construction loans, since the State Water Board staff would already be familiar with the project and the borrower's terms.	DFA staff appreciates your comments and will continue to work with stakeholders on addressing the capacity of the CWSRF Program. Staff recommends no changes at this point.
	(c) Supports the new scoring and prioritization criteria, but they recommend that borrowers with additional sources of funding should receive some priority points. They also recommend awarding priority points to projects that have previously received partial SRF funding. SFPUC is concerned that the new primary scoring system does not reward agencies that proactively manage their systems, and are in compliance with regulatory requirements.	Staff believes that the Regional Water Boards' and the Office of Enforcement's robust enforcement efforts provide an effective deterrent to agencies intentionally allowing valuable infrastructure to deteriorate in an effort to potentially boost the Primary Score and thereby the Priority Score. In addition, the Priority Score is a composite score. The benefits associated with apathetic management and oversight by applicants in an effort to boost the Primary Score is questionable when considering the entire scoring process.
	(d) Recommends some edits to the Credit and Financial Guidelines Appendix N of the CWSRF Policy.	The Credit/Financial Guidelines are intended to provide DFA flexibility in reviewing the credit of large borrowers. The guidelines were developed in conjunction with the CWSRF Program's Financial Advisor. DFA staff will continue to work with stakeholders on these guidelines and, consistent with Policy requirements, will adjust the guidelines as they are implemented in the future. Staff recommends no changes at this point.
	(e) Recommends optimizing the total eligible costs per loan, since it would benefit the applicant and the SWRCB to save administrative costs.	Staff considered this approach in developing the scoring matrix, but opted to propose project benefit criteria.
(16) County Sanitation Districts of Los Angeles County (LACSD)	(a) Comments that preventive projects should receive a higher score than corrective projects. LACSD is concerned that awarding a higher score to corrective projects may have the unintended consequence of encouraging agencies to be "bad actors" because they are given a lower score for being proactive and addressing issues before they become problems.	Staff believes that the Regional Water Boards' and the Office of Enforcement's robust enforcement efforts provide an effective deterrent to agencies intentionally allowing valuable infrastructure to deteriorate in an effort to potentially boost the Primary Score and thereby the Priority Score. In addition, the Priority Score is a composite score. The benefits associated with apathetic management and oversight by applicants in an effort to boost the Primary Score is questionable when considering the entire scoring process.
	(b) Comments that the cutoff score of the fundable projects seems counterintuitive. Recommends that if the Community Economic Status is just to be considered as a tie breaker it should only be applied to the projects at the cutoff score and then used to rank them within those with a similar initial score. Conversely, if the SWRCB feels that the Community Economic Status is more than just a tie breaker and is important for the rankings, it should be included as part of the initial scoring.	Staff agrees with this comment, and has adjusted the draft language so that the tie breaking "Community Economic Status" scoring and the partial funding restrictions would only be applied to those projects with the cutoff score.
	(c) Unclear on how will "large disadvantaged communities" be assessed for above criterion.	Based on the income of the community served by the project.
	(d) Agencies with higher "Readiness Score" are more likely to receive funding, but if the review process is not completed before construction starts, applicants will have no choice but to proceed with construction before final agreement has been executed. Recommends having environmental review take place concurrently, while the CEQA review is in process.	Program receives federal funds and is subjected to federal cross cutters requirements. This can require consultation with federal agencies that cannot be completed within the 30 day public review associated with CEQA. Policy also allows retroactive reimbursement of construction costs back to beginning of construction.

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(16) County Sanitation Districts of Los Angeles County (LACSD)	(e) Recommends giving extra points in the scoring process to projects that agree to accept shorter term financing.	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.
	(f) Recommends projects and their funding be carried over each year so that future projects aren't limited by delays in executing agreements for Fundable Projects in past years.	Staff recommends that the Funding Target be used as an annual goal, but not as a minimum or maximum amount of funding. Establishing the Funding Target as a strict minimum or maximum could over time reduce the Board's future options for the program.
	(g) Section IX.B.2.d.ii states that agencies can only receive a financing agreement if water suppliers in the agency's service area comply with Division 6 of the Water Code. Comments that it would be unfair to punish an entire service area because of one recalcitrant water supplier. Recommends that exemptions be made where water suppliers are not under the jurisdictional control of applicants.	The proposed Amendment Section IX.B.2.d.ii has been revised: "If the applicant is not a water supplier, the State Water Board will not execute a financing agreement until the applicant has verified to the satisfaction of the Deputy Director of the Division that the water suppliers in its service or project area have complied with the provisions of Division 6 of the Water Code applicable to the area's water suppliers."
	(h) Minor comments and clarifications are attached in a table format.	Staff received and reviewed the table, some changes were made to the Policy accordingly.
(17) Soquel Creek Water District	(a) Recommends consideration of critically over drafted groundwater basins and the SGMA compliance requirements as a resource or impact category in the Primary Score considerations. If SWRCB does not include this new category, we are requesting that the current descriptions be amended to specify that seawater intrusion is an eligible drinking water source threat and that the treatment and injection of purified water to protect against seawater intrusion is an eligible activity under the Drinking Water Source category.	Staff has attempted to select the most meaningful, unique, and exclusive criteria and factors to help prioritize the overabundance of applications. The more factors that are added into the scoring system, the less effective it is likely to become. Although the recommended factors individually have merit, staff recommends not adding additional factors to the scoring system.
(18) WaterReuse California	(a) "Primary Score": suggests that specific scoring of 8 (corrective) and 7 (preventative) be allowed for recycled water projects that provide corrective or preventative water quality actions.	Please see the response to (1)(a)
	(b) Suggests to add the following <u>revision</u> under the secondary score criteria: 1) Project addresses multiple water quality impairments, eliminates or reduces multiple sources of water pollution, or eliminates or <u>reduces</u> a discharge of waste regulated by a Regional Water Board or the State Water Board.	Staff recommends not adding the word "reduce" to the item. The item was intended to give Secondary Scoring points to projects that eliminate a discharge into the environment and thereby reduce the number of permits and discharge points. There are many projects that reduce waste discharges, and therefore lowering the bar would tend to make this Secondary Score less effective at prioritizing applications.
	(c) Within the secondary score criteria, multi-agency regional environmental plan category, suggests adding whether a project is included (or listed) in an Integrated Regional Water Management (IRWM) Plan. Projects identified in these plans and otherwise eligible for CWSRF funds appear to meet the other elements of this criteria	Staff believes that this addition is not necessary. If a project is cited in a plan that fits description of "Multi-Agency Regional Environmental Management Plan", under the secondary score criteria, then it would receive a secondary score under that category. An IRWM Plan is considered a Multi-Agency Environmental Management Plan.
	(d) The "Readiness Score" requires at least 49% complete to get a score of 1 and 89% to get a score of 2. Anything less than 49% receives a score of 0. However, in section (IX, A, 1), it states "Applicants should submit the complete application for review in advance of the ten percent (10%) design level effort." If applicants submit their plans in advance of 10% design level effort they will receive a 0 for readiness. These two sections should be clarified.	The proposed amendment has been revised and the referenced statement removed.
	(e) Private System Eligibility: The policy should clarify and specifically include eligibility for recycled water onsite user retrofits on private property that is publicly funded. In addition, in section IX.C.1.r.vi we suggest that "on publicly owned" be removed from the definition and replaced with the term "eligible".	The proposed amendment has been revised to allow recycled water user retrofits on private or public property to be an eligible cost.

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(18) WateReuse California	(f) Comments that the proposed Planning/ Design Application Requirements increases the burden of submitting a planning and design application, and Staff should consider the necessity of these additions.	Staff appreciates the comments. DFA plans to continue working with stakeholders on ways to address the capacity issues of the CWSRF Program.
	(f) Requests clarification on the definition of the new term "Eligible Project" and what specific requirements apply for an applicant project to be deemed an " Eligible Project".	Section IX. Project Financing (Exhibit B, page 20) says that "Eligible project types will be reflected in the current year's IUP, and generally conform to the list of eligible projects set forth in the CWA. (33 U.S.C. § 1383). Applicants should contact the Division for assistance with eligibility determinations."
	(g) Requests that the Policy include an outline of this internal process and its deadlines, as it is likely to extend through the latter half of the prior fiscal year and then through the applicable program funding year .	Thank you for your comment. The schedule for preparing the Fundable List will be provided through the Division's marketing and communication channels.
	(h) Requests that the Policy be amended to include advance notification to project applicants of possible removal from the Fundable List, as well as an opportunity to provide comments, input or supportive documentation to the Board in response, in an effort to avoid the removal.	Section IV.B.5.a already requires the Deputy Director to notify the applicant and give the applicant an opportunity to respond in case of project removal from the Fundable List.